

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT JONES,

Plaintiff,

-against-

DETECTIVE JOSE CRIOLLO, POLICE OFFICER
STEVEN MIKONLAND, DETECTIVE JAMES
MEEHAN, LIEUTENANT FELIX RIVERA,
DETECTIVE ADAM SAGER, AND DETECTIVE
GREGORY THORNTON,

Defendants.

**DECLARATION OF
MARIA FERNANDA
DECASTRO IN
SUPPORT OF
DEFENDANTS'
MOTION FOR
SUMMARY JUDGMENT**

14-CV-6402 (KPF)

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Maria Fernanda DeCastro, an attorney duly admitted to practice in the United States District Court for the Southern District of New York, declares, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the Office of Zachery W. Carter, Corporation Counsel of the City of New York, attorney for defendants Detective Jose Criollo, Detective James Meehan, Police Officer Steven Mikolanda, Lieutenant Felix Rivera, Detective Adam Sager, and retired Detective Gregory Thornton ("defendants"). As such, I am familiar with the facts and circumstances stated below. I submit this declaration in support of defendants' Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. In support of this motion, defendants submit the following exhibits:

2. Annexed hereto as Exhibit "A" is a copy of Plaintiff's Complaint, filed in the United States District Court for the Southern District of New York on August 4, 2014,

wherein plaintiff alleges, *inter alia*, that on January 27, 2012, he were falsely arrested by defendants.

3. Annexed hereto as “Exhibit B” are the January 26, 2012, and January 27, 2012, Arrest Reports, charging plaintiff with nine separate burglaries and several counts of possession of stolen property.

4. Annexed hereto as “Exhibit C” is the NYPD Complaint Follow-Up Informational Report No. 2 for Complaint No. 2011-014-14341, which contains information regarding the investigation into the burglary at complaining victim T.D.’s apartment.

5. Annexed hereto as “Exhibit D” is the Affidavit of Detective James Meehan.

6. Annexed hereto as “Exhibit E” is NYPD Complaint Report for Complaint No. 2011-014-14341, which contains information regarding the investigation into the burglary at complaining victim T.D.’s apartment, including a list of items that complaining victim T.D. reported as stolen from his apartment.

7. Annexed hereto as “Exhibit F” is NYPD Complaint Follow-Up Informational Report No. 5 for Complaint No. 2011-014-14341, which contains information regarding Detective Meehan’s response to the burglary at T.D.’s apartment, and the finding of a knife in T.D.’s apartment.

8. Annexed hereto as “Exhibit G” is NYPD Complaint Follow-Up Informational Report No. 4 for Complaint No. 2011-014-14341, which contains information regarding Detective Meehan’s review of video footage from the date of the burglary at T.D.’s apartment.

9. Annexed hereto as “Exhibit H” is the Transcript of the Deposition of plaintiff Robert Jones, taken on April 10, 2017, wherein plaintiff outlines background

information, the details of his arrest and encounter with NYPD officers, and the details of his purported claims.

10. Annexed hereto as “Exhibit I” is NYPD Complaint Follow-Up Informational Report No. 4 for Complaint No. 2012-018-000185, which contains information regarding the investigation into the burglary at complaining victim S.C.’s apartment.

11. Annexed hereto as “Exhibit J” is the Affidavit of Detective Jose Criollo.

12. Annexed hereto as “Exhibit K” is the NYPD Complaint Report for Complaint No. 2012-018-000185, which contains information regarding the burglary complaint made by complaining victim S.C.

13. Annexed hereto as “Exhibit L” is the NYPD Complaint Follow-Up Informational Report No. 3 for Complaint No. 2012-018-00323, which contains information regarding the investigation into the burglary at complaining victim B.F.’s apartment.

14. Annexed hereto as “Exhibit M” is the NYPD Complaint Follow-Up Informational Report No. 2 for Complaint No. 2012-018-00324, which contains information regarding the investigation into the burglary at complaining victim K.S.’s apartment.

15. Annexed hereto as “Exhibit N” is the NYPD Complaint Follow-Up Informational Report No. 1 for Complaint No. 2012-018-00324, which contains information regarding the NYPD’s recovery of a black knitted hat inside of complaining victim K.S.’s apartment.

16. Annexed hereto as “Exhibit O” is the Office of the Chief Medical Examiner Report, reflecting that DNA was recovered from the black knitted hat recovered from K.S.’s apartment.

17. Annexed hereto as “Exhibit P” is a letter from the New York State Division of Criminal Justice Services to the Office of the Chief Medical Examiner, wherein it is reported that a search of the State DNA Index System resulted in a match between the DNA recovered from the black knitted and a convicted offender, plaintiff Robert Jones.

18. Annexed hereto as “Exhibit Q” is NYPD Complaint Follow-Up Informational Report No. 3 for Complaint No. 2012-018-00324, wherein detective Criollo documents his conversation with Sergeant Sammon regarding the individual that the sergeant saw leaving K.S.’s apartment on the date of the burglary of K.S. and B.F.’s apartments.

19. Annexed hereto as “Exhibit R” is the NYPD Complaint Report for Complaint No. 2012-018-000338, which contains information regarding the burglary complaint made by complaining victim W.B.

20. Annexed hereto as “Exhibit S” is the NYPD Complaint Report for Complaint No. 2012-018-000533, which contains information regarding the burglary complaint made by complaining victim D.L.

21. Annexed hereto as “Exhibit T” is the NYPD Complaint Report for Complaint No. 2012-018-000535, which contains information regarding the burglary complaint made by complaining victim D.D.

22. Annexed hereto as Exhibit “U” is a copy of an email from complaining victim D.D. to Detective Criollo, dated January 24, 2012, wherein complaining victim D.D. provides Detective Criollo with the serial number to her missing Ipod.

23. Annexed hereto as “Exhibit V” is the NYPD Complaint Report for Complaint No. 2012-018-000534, which contains information regarding the burglary complaint made by complaining victim J.M.

24. Annexed hereto as “Exhibit W” is the NYPD Complaint Report for Complaint No. 2012-024-00337, which contains information regarding the investigation into the burglary at complaining victim N.F.’s apartment.

25. Annexed hereto as “Exhibit X” is NYPD Complaint Follow-Up Informational Report No. 1 for Complaint No. 2012-024-00337, which contains further information regarding the investigation into the burglary at complaining victim N.F.’s apartment.

26. Annexed hereto as Exhibit “Y” is a copy of an email from complaining victim J.M. to Detective Criollo, dated January 24, 2012, wherein complaining victim J.M. informed Detective Criollo that the Find My Iphone feature of his MacBook traced his stolen computer to 581 Glenmore Avenue, Brooklyn, New York.

27. Annexed hereto as Exhibit “Z” is a google map, which depicts that 581 Glenmore Avenue, Brooklyn, New York, 11207, and 571 Glenmore Avenue, Brooklyn, New York, are approximately 174 feet away from each other.

28. Annexed hereto as “Exhibit AA” is NYPD Complaint Report Follow-Up Informational Report No. 7 for Complaint No. 2012-024-00323, which contains information into the police sketch that was created of the individual that was suspected of the burglaries.

29. Annexed hereto as “Exhibit BB” is NYPD Wanted Poster that was created using the sketch of the perpetrator wanted for the burglaries.

30. Annexed hereto as Exhibit “CC” is a copy of an email from Lieutenant Seamus McHugh to Lieutenant Felix Rivera, dated January 25, 2012, wherein Lieutenant McHugh informed Lieutenant Rivera that NYPD Officers from the 77th Precinct stopped an individual matching the suspect wanted for the burglaries.

31. Annexed hereto as Exhibit “DD” is the Affidavit of Felix Rivera, dated July 17, 2017.

32. Annexed hereto as Exhibit “EE” is the Declaration of Gregory Thornton, dated July 13, 2017.

33. Annexed hereto as Exhibit “FF” is the Search Warrant Affidavit, signed by Detective Robert Hahn, wherein Detective Hahn explains that, while at 571 Glenmore Avenue, Detective Hahn observed plaintiff using what appeared to be a stolen computer.

34. Annexed hereto as Exhibit “GG” is the Search Warrant for plaintiff’s room in the halfway house, which is dated January 26, 2012.

35. Annexed hereto as Exhibit “HH” is the Declaration of Adam Sager, dated July 17, 2017.

36. Annexed hereto as Exhibit “II” is NYPD Property Clerk Invoice No. 1000126240, which shows the computers that were vouchered and recovered from inside of plaintiff’s room on January 26, 2012.

37. Annexed hereto as Exhibit “JJ” is the Affidavit of Steven Mikolanda, dated July 13, 2017.

38. Annexed hereto as Exhibit “KK” are plaintiff’s medical records from Bellevue Hospital from January 27, 2012, indicating, among other things, that plaintiff never complained of abdominal pain or high blood pressure.

39. Annexed hereto as Exhibit “LL” is a copy of the Criminal Court Complaint in the People of the State of New York v. Robert Jones, Docket No. 2012NY007949.

40. Annexed hereto as Exhibit “MM” is a copy of the Certificate of Grand Jury Action in the People of the State of New York v. Robert Jones, Docket No. 2012NY007949, which indicates that plaintiff was indicted by a grand jury on or about February 1, 2012.

41. Annexed as Exhibit “NN” is a copy of the People of the State of New York v. Robert Jones, Docket No. 2012NY007949, Certificate of Disposition No. 44375, dated October 1, 2015, showing that the criminal charges against plaintiff were dismissed on November 14, 2013.

42. Annexed hereto as Exhibit “OO” is NYPD Property Clerk Invoice No. 1000126258, which shows D.D.’s Ipod that was vouchered and recovered from inside of plaintiff’s room.

43. Annexed hereto as “Exhibit PP” is the NYPD Complaint Follow-Up Informational Report No. 5 for Complaint No. 2012-018-00323, which contains information regarding the investigation into the burglary at complaining victim B.F.’s apartment.

44. Annexed hereto as “Exhibit QQ” is Plaintiff’s Notice of Claim, indicating that plaintiff mailed the Notice of Claim on or about April 22, 2014. The notice of claim further indicates that it the document was received by the Office of the Corporation Counsel of the City of New York on April 24, 2014, and received by the Comptroller’s Officer on April 25, 2014.

Dated: New York, New York
July 17, 2017

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
*Attorney for Defendants Criollo, Meehan,
Mikolanda, Rivera, Sager, and Thornton*
100 Church Street, Room 3-201
New York, New York 10007
(212) 356-2658

By: /s/
Maria Fernanda DeCastro
Assistant Corporation Counsel

TO: BY FIRST-CLASS MAIL
Robert Jones
#141-15-02468
Robert N. Davoren Complex
11-11 Hazen Street
E. Elmhurst, NY 11370